

DEPARTMENT OF STATE
MICHIGAN HISTORICAL CENTER
HISTORIC PRESERVATION CERTIFICATION

Filed with the Secretary of State on February 23, 2000

These rules take effect 15 days after filing with the Secretary of State

(By authority conferred on the department of state by section 266 of 1967 PA 281, MCL 206.266 and section 39c of 1975 PA 228, MCL 208.39c)

R 206.151 Purpose.

Rule 1. The purpose of these rules is to prescribe the procedures whereby a taxpayer may request certification of historic significance, a rehabilitation plan, and a completed rehabilitation of a historic resource before seeking a tax credit.

R 206.152 Definitions.

Rule 2. (1) As used in these rules:

(a) "Federal secretary" means the United States secretary of the interior, or a designee authorized by the secretary, in the course of carrying out the secretary's responsibilities to certify historic significance, rehabilitation plans, and rehabilitation work under federal law.

(b) "Inspection" means a visit by an authorized representative of the center to a certified or potentially certified historic resource for the purposes of reviewing and evaluating the significance of the historic resource or the ongoing or completed rehabilitation or for the purpose of determining whether an unapproved alteration to the completed rehabilitation was made during the 5 years after the tax year in which a tax credit was claimed.

(c) "Michigan historical center" or "center" means the state historic preservation office of the Michigan historical center of the department of state or its successor agency.

(d) "owner" means a person, partnership, corporation, or public body holding a fee simple interest in a resource or any other person or entity recognized by a tax organization for purposes of applicable tax benefits.

(e) "Rehabilitation" means the process of returning a building, structure, or other historic resource to a useful state, through repair or alteration, which makes possible an efficient or a functional use while preserving the portions and features of the historic resource that are significant to its historical, architectural, and cultural values.

(f) "Standards and guidelines" means the federal secretary's standards for rehabilitation and guidelines for rehabilitating historic buildings set forth in, and authorized by, 36 C.F.R. '67.7.

(g) "Tax credit" means a credit against a federal tax as allowed by section 47(a)(2) of the

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internal revenue code of 1990, 26 U.S.C. '47, or against a state tax as allowed by section 266 of 1967 PA 281, MCL 206.266, or section 39c of 1975 PA 228, MCL 208.39c.

(2) A word or term defined in section 266 of 1967 PA 281, MCL 206.266, or section 39c of 1975 PA 228, MCL 208.39c, has the same meaning when used in these rules.

R 206.153 Preliminary information.

Rule 3. A person who owns or leases a resource which the person believes to be a historic resource and which, if rehabilitated, could qualify the person for a tax credit may communicate with the Michigan historical center and request information on a preliminary basis with respect to whether the resource is historic, whether a rehabilitation plan appears to conform with standards and guidelines, or whether completed rehabilitation appears to conform with standards and guidelines.

R 206.154 Certification; historic significance.

Rule 4. (1) A person who is eligible to apply for a tax credit shall first submit an application to the center for certification of historic significance of the person's possible historic resource. If the person is eligible to claim a federal tax credit or both federal and state tax credits, then the person shall apply on a historic preservation certification application prescribed by the national park service. The person shall also file, at the same time, a declaration of location and other project information prescribed by the Michigan historical center. If the person is eligible to claim a state tax credit exclusively, then the person shall apply only on a historic preservation certification application prescribed by the center. The person shall file 2 copies of each application and declaration.

(2) An application shall contain the information requested in the application. The application shall include, but is not limited to, all of the following information:

- (a) Name and mailing address of each owner or long-term lessee, if any, seeking the credit.
- (b) Common modern name and historic name, if any, of the resource.
- (c) Address of the resource.
- (d) Name of the historic district, if applicable.
- (e) All of the following photographs:
 - (i) Current photographs of the resource.
 - (ii) Photographs of the building or structure, site, and landscaping before alteration.
 - (iii) Photographs showing the property in conjunction with adjacent properties and structures along the streetscape.
 - (iv) A photograph of each distinct interior space, such as a room, and each significant interior feature.
- (f) A brief description of the resource, including major alterations, distinctive features and spaces, and dates of construction activity.
- (g) A brief statement of significance, summarizing how the resource reflects historical values, including the values that may give a designated historic district its distinctive character.
- (h) A map clearly locating the resource in a local unit or in an established historic district.
- (i) The social security number or federal taxpayer identification number of each applicant.

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(j) The signature of each applicant.

(3) Together with the application, an applicant shall submit only attachments that the center deems necessary to perform an evaluation and a determination. The center shall notify an applicant, in writing, if additional information or materials are required. If the center notifies the applicant of the need for additional information or materials, then the center shall refrain from processing the application until the requested information or materials, or both, have been furnished.

(4) Upon receipt of a complete and adequately documented application and a declaration, if applicable, the center, within 45 days of receipt, shall review the submission to determine the eligibility of a possible historic resource for participation in the federal or state tax credit program, or both. The center shall also evaluate the significance and status of the possible historic resource, including whether it qualifies as a historic resource for purposes of the federal and state tax credit programs.

(5) Upon completion of an evaluation and determination of historic significance, including an evaluation of whether a resource is a historic resource and, if so, whether the historic resource is located in an eligible location, the center shall directly, or through the federal secretary, notify the applicant, in writing, of its determination on the application for historic significance certification.

R 206.155 Certification; rehabilitation plan.

Rule 5. (1) To initiate a review of a rehabilitation plan for certification purposes, a person shall complete part 2 of the historic preservation certification application prescribed by the national park service or part 2 of the historic preservation certification application prescribed by the Michigan historical center, whichever is appropriate, and submit 2 copies of the application to the center. The applicant shall pay the fee as prescribed in 36 C.F.R. '67.11 for a federal application before receipt of a certification on part 2 of a federal application. In each instance, the applicant shall attach to the application adequate supporting documentation and photographs deemed sufficient by the center to document the interior and exterior appearance of a structure, its site, and environment before the commencement of rehabilitation. The applicant shall furnish any additional documentation, such as window surveys or masonry cleaning specifications, requested by the center. In addition, the applicant shall include the applicant's social security number or federal taxpayer identification number, as appropriate, on the application. Each applicant shall sign the application. Verification of the resource's state equalized value shall accompany the application. Plans for adjacent, attached, or related new construction shall also accompany the application.

(2) Upon receipt of a complete and adequately documented part 2 of an application as described in subrule (1) of this rule, the center within 45 days shall review the submission to determine whether the applicant's rehabilitation plan meets the federal secretary's standards and guidelines. If the center deems that additional information or documentation is needed to evaluate the submission, then the center shall notify the applicant in writing and shall refrain from processing the application until the information or documents, or both, have been furnished. To qualify for certification, a proposed rehabilitation plan shall comport with each element of the secretary's 10 standards, to the extent applicable.

(3) If the application is prescribed by the center and the center determines that a rehabilitation plan does not meet the federal secretary's standards and guidelines, then the center

shall notify the applicant, in writing, of the determination. Where possible, the center shall also advise the applicant, by means of an explanatory letter, of the revisions necessary to meet the standards and guidelines. An applicant, upon receipt of written notice, may revise the rehabilitation plan and resubmit a revised proposed plan to the center. The center shall refrain from processing the application further until the necessary revisions have been made and furnished.

(4) If the center determines that a rehabilitation plan meets the federal secretary's standards and guidelines, then the center shall directly, or through the federal secretary, notify the applicant, in writing, of the determination.

R 206.156 Certification; completed rehabilitation.

Rule 6. (1) To initiate a review of completed rehabilitation, a person shall complete the "request for certification of completed work" portion of the historic preservation certification application prescribed by the national park service or the comparable portion of the historic preservation certification application prescribed by the Michigan historical center, whichever is appropriate, and submit 2 copies of the application to the center. The applicant shall pay the fee as prescribed in 36 C.F.R '67.11 for a federal application or as prescribed in R 206.157 for a state application, whichever is appropriate, before issuance of a certification regarding completed rehabilitation. The application shall include the project completion date, the social security number or federal taxpayer identification number of the applicant, and a signed statement that the completed rehabilitation is consistent with part 2 of the application and meets the federal secretary's standards and guidelines. The application shall be accompanied by photographs adequate to document the completed rehabilitation.

(2) Upon receipt of a complete and adequately documented request for certification of completed work and other items as described in subrule (1) of this rule, the center, within 45 days of receipt, shall perform a review to determine whether the completed rehabilitation conforms with the rehabilitation plans and plan amendments, if any, and meets the federal secretary's standards and guidelines. The center shall determine conformance to the standards and guidelines on the basis of application documentation and other available information showing the historic resource as it existed in its historic setting. To qualify for certification, the completed rehabilitation work shall comport with each element of the secretary's 10 standards, to the extent applicable.

(3) If the center determines that the rehabilitation does not meet the federal secretary's standards and guidelines, then the center, directly or through the federal secretary, shall notify the applicant of the determination in writing. The center may require changes in the rehabilitation that enable the rehabilitation to meet the federal standards and guidelines. The center shall refrain from processing the application further until the required changes in the rehabilitation have been made.

(4) If the center determines that the rehabilitation meets the federal secretary's standards and guidelines, then the center shall, directly or through the federal secretary, notify both the applicant and the Michigan department of treasury of the determination.

R 206.157 Fees.

Rule 7. (1) An applicant who submits a historic preservation certification application prescribed by the national park service is responsible for the payment of fees in the amount, and to the office, prescribed in 36 C.F.R. 67.11.

(2) An applicant who submits a historic preservation certification application prescribed by the Michigan historical center is responsible for payment of fees in the amount, and to the office, prescribed in subrule (3) of this rule. An applicant shall not make payment until the center requests payment. An applicant shall make a check or other instrument payable to the "State of Michigan." The center shall not make a certification decision until the appropriate remittance has been received. All fees are nonrefundable.

(3) An applicant shall remit fees to the center on the basis of the following fee schedule:

<u>Fee</u>	<u>Size of rehabilitation</u>
No fee	\$0.00 to \$999.00.
\$25.00.....	\$1,000.00 to \$3,999.00.
\$100.00.....	\$4,000.00 to \$9,999.00.
\$250.00.....	\$10,000.00 to \$19,999.00.
\$500.00.....	\$20,000.00 to \$99,999.00.
\$800.00.....	\$100,000.00 to \$499,999.00.
\$1,500.00.....	\$500,000.00 to \$999,999.00.
\$2,500.00.....	\$1,000,000.00 or more.

(4) An applicant who submits a declaration of location as prescribed in R 206.154 shall submit a processing fee of \$25.00. An applicant shall make a check or other instrument payable to the "State of Michigan." All processing fees are nonrefundable.

R 206.158 Inspection; revocation.

Rule 8. (1) The center may conduct an inspection of a historic resource at any reasonable time within 5 years after completion of rehabilitation.

(2) The center may issue a revocation of a certification, after giving the applicant 30 days' written notice, if the center determines that a rehabilitation was not undertaken in conformity with the federal secretary's standards and guidelines or if the applicant, after obtaining certification, undertook further unapproved work inconsistent with the standards and guidelines. The center shall notify the department of treasury of a revocation issued under this subrule. The department of treasury shall determine the Michigan tax consequences of a revocation of certification, if any. An applicant may appeal a revocation of certification under this subrule under R 206.159.

(3) The owner or lessee of a certified historic resource shall notify the center if a property has been damaged, altered, or otherwise substantially changed after issuance of a certification of historic significance. Upon receipt of notice and upon further investigation, the center may issue a revocation of historic certification. The center shall furnish a copy of the revocation of certification to the department of treasury. The department of treasury shall determine the Michigan tax consequences of a revocation of certification, if any. The owner or lessee of a resource may appeal

a revocation of certification under this subrule under R 206.159.

R 206.159 Appeals.

Rule 9. (1) A person may appeal a denial of an application for certification submitted under these rules or a revocation issued under R 206.158. If the appeal involves a historic preservation certification application prescribed by the national park service, then the appellant shall follow the procedures set forth in 36 C.F.R. '67.10. If the appeal involves a historic preservation certification application, letter of declaration prescribed by the Michigan historical center, or a revocation issued under R 206.158, then the appellant shall follow the procedures prescribed in this rule. (2) To file an appeal under this rule, an appellant shall submit a written appeal that specifically states the word “appeal” and identifies the reason or reasons for reversal of the denial. For an appeal to be considered, the appellant shall file the appeal within 60 days of the appellant’s receipt of the decision that is the subject of the appeal. The appeal shall be addressed to the Chief Appeals Officer, Michigan Historical Center, Michigan Department of State, 717 W. Allegan Street, Lansing, MI 48918-1800. All information, records, and other materials that the appellant wants considered shall accompany the written appeal.

(3) The chief appeals officer shall contact the center and obtain a copy of the center’s official file on the application at issue. The officer shall consider all of the following, but shall not conduct a hearing:

- (a) The center’s file.
- (b) All written submissions from the appellant.
- (c) All pertinent standards and guidelines affecting the historic resource.
- (d) Any other available information.

(4) Within 60 days, the officer shall prepare a written decision and shall furnish a copy of the decision to the appellant and the center. An appeal constitutes an administrative review of the denial and is not conducted as a contested case proceeding.

(5) When considering an appeal, the chief appeals officer shall assess alleged errors in professional judgment and other alleged prejudicial errors of fact or law. The officer may base a decision in whole or in part on matters or factors not addressed in the appealed decision. When rendering a decision, the officer may do 1 of the following:

- (a) Reverse the appealed decision.
- (b) Affirm the appealed decision.
- (c) Resubmit the matter for further consideration.

(6) The decision of the chief appeals officer is the final decision on the appeal. A person may not be deemed to have exhausted his or her administrative remedies with respect to the certifications governed by these rules until the chief appeals officer has issued a final administrative decision under these rules.

R 206.160 Sale or transfer of resource; notification.

Rule 10. If a person has received a certification under these rules and sells or otherwise transfers the person’s historic resource within 5 years of receipt of certification, then the person shall notify the Michigan historical center and the department of treasury of the sale or transfer.